
HOUSE BILL No. 1401

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 6-3.5-7.

Synopsis: CEDIT for property tax relief. Provides that a county may deposit all or a part of the county economic development income tax (CEDIT) revenue in the property tax replacement fund for property tax replacement credits.

Effective: July 1, 2005.

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January 13, 2005, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1401

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-21-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The department,
3 with the assistance of the auditor of state and the department of local
4 government finance, shall determine an amount equal to the eligible
5 property tax replacement amount, which is the estimated property tax
6 replacement.
7 (b) The department of local government finance shall certify to the
8 department the amount of homestead credits provided under
9 IC 6-1.1-20.9 which are allowed by the county for the particular
10 calendar year.
11 (c) If there are one (1) or more taxing districts in the county that
12 contain all or part of an economic development district that meets the
13 requirements of section 5.5 of this chapter, the department of local
14 government finance shall estimate an additional distribution for the
15 county in the same report required under subsection (a). This additional
16 distribution equals the sum of the amounts determined under the
17 following STEPS for all taxing districts in the county that contain all

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or part of an economic development district:

STEP ONE: Estimate that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the estimated property tax replacement amount attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(d) If a county designates all or a part of the county economic development income tax revenue generated by the tax rate adopted under IC 6-3.5-7-5 to replace property taxes in the county, the department of local government finance shall estimate an additional distribution for the county in the same report required under subsection (a). This additional distribution equals the amount deposited in the property tax replacement fund by the county under IC 6-3.5-7-28(c).

~~(d)~~ (e) The sum of the amounts determined under subsections (a) through ~~(c)~~ (d) is the particular county's estimated distribution for the calendar year.

SECTION 2. IC 6-1.1-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) for a county that designates all or a part of the county economic development income tax revenue generated by the tax rate adopted under IC 6-3.5-7-5 to replace property taxes in the county, an amount equal to the amount deposited in the property tax replacement fund by the county under IC 6-3.5-7-28(c); plus

~~(3)~~ (4) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the

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1 following STEPS for all taxing districts in the county that contain
 2 all or part of an economic development district:

3 STEP ONE: Determine that part of the sum of the amounts
 4 under section 2(g)(1)(A) and 2(g)(2) of this chapter that is
 5 attributable to the taxing district.

6 STEP TWO: Divide:

7 (A) that part of the subdivision (1) amount that is
 8 attributable to the taxing district; by

9 (B) the STEP ONE sum.

10 STEP THREE: Multiply:

11 (A) the STEP TWO quotient; times

12 (B) the taxes levied in the taxing district that are allocated to
 13 a special fund under IC 6-1.1-39-5.

14 (b) Except as provided in subsection (e), between March 1 and
 15 August 31 of each year, the department shall distribute to each county
 16 treasurer from the property tax replacement fund one-half (1/2) of the
 17 estimated distribution for that year for the county. Between September
 18 1 and December 15 of that year, the department shall distribute to each
 19 county treasurer from the property tax replacement fund the remaining
 20 one-half (1/2) of each estimated distribution for that year. The amount
 21 of the distribution for each of these periods shall be according to a
 22 schedule determined by the property tax replacement fund board under
 23 section 10 of this chapter. The estimated distribution for each county
 24 may be adjusted from time to time by the department to reflect any
 25 changes in the total county tax levy upon which the estimated
 26 distribution is based.

27 (c) On or before December 31 of each year or as soon thereafter as
 28 possible, the department shall make a final determination of the amount
 29 which should be distributed from the property tax replacement fund to
 30 each county for that calendar year. This determination shall be known
 31 as the final determination of distribution. The department shall
 32 distribute to the county treasurer or receive back from the county
 33 treasurer any deficit or excess, as the case may be, between the sum of
 34 the distributions made for that calendar year based on the estimated
 35 distribution and the final determination of distribution. The final
 36 determination of distribution shall be based on the auditor's abstract
 37 filed with the auditor of state, adjusted for postabstract adjustments
 38 included in the December settlement sheet for the year, and such
 39 additional information as the department may require.

40 (d) All distributions provided for in this section shall be made on
 41 warrants issued by the auditor of state drawn on the treasurer of state.
 42 If the amounts allocated by the department from the property tax

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1 replacement fund exceed in the aggregate the balance of money in the
 2 fund, then the amount of the deficiency shall be transferred from the
 3 state general fund to the property tax replacement fund, and the auditor
 4 of state shall issue a warrant to the treasurer of state ordering the
 5 payment of that amount. However, any amount transferred under this
 6 section from the general fund to the property tax replacement fund
 7 shall, as soon as funds are available in the property tax replacement
 8 fund, be retransferred from the property tax replacement fund to the
 9 state general fund, and the auditor of state shall issue a warrant to the
 10 treasurer of state ordering the replacement of that amount.

11 (e) Except as provided in subsection (i), the department shall not
 12 distribute under subsection (b) and section 10 of this chapter the money
 13 attributable to the county's property reassessment fund if:

14 (1) by the date the distribution is scheduled to be made, the
 15 county auditor has not sent a certified statement required to be
 16 sent by that date under IC 6-1.1-17-1 to the department of local
 17 government finance;

18 (2) by the deadline under IC 36-2-9-20, the county auditor has not
 19 transmitted data as required under that section; or

20 (3) the county assessor has not forwarded to the department of
 21 local government finance the duplicate copies of all approved
 22 exemption applications required to be forwarded by that date
 23 under IC 6-1.1-11-8(a).

24 (f) Except as provided in subsection (i), if the elected township
 25 assessors in the county, the elected township assessors and the county
 26 assessor, or the county assessor has not transmitted to the department
 27 of local government finance by October 1 of the year in which the
 28 distribution is scheduled to be made the data for all townships in the
 29 county required to be transmitted under IC 6-1.1-4-25(b), the state
 30 board or the department shall not distribute under subsection (b) and
 31 section 10 of this chapter a part of the money attributable to the
 32 county's property reassessment fund. The portion not distributed is the
 33 amount that bears the same proportion to the total potential distribution
 34 as the number of townships in the county for which data was not
 35 transmitted by October 1 as described in this section bears to the total
 36 number of townships in the county.

37 (g) Money not distributed for the reasons stated in subsection (e)(1)
 38 and (e)(2) shall be distributed to the county when:

39 (1) the county auditor sends to the department of local
 40 government finance the certified statement required to be sent
 41 under IC 6-1.1-17-1; and

42 (2) the county assessor forwards to the department of local

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government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a); with respect to which the failure to send or forward resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of:

(A) a county auditor to send a certified statement; or

(B) a county assessor to forward copies of all approved exemption applications;

as described in subsection (e); or

(2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances.

SECTION 3. IC 6-1.1-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in May and November of that year; or

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year shall be based upon the taxpayer's tax liability as is evidenced by the tax duplicate for the taxes payable in that year, plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy

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for that year, as provided in sections 2(g) and 3 of this chapter, adjusted, however, for any change in assessed valuation which may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). However, except when using the term under section 2(l)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this chapter in computing the total county tax levy.

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

(1) the STEP TWO quotient determined under ~~section 4(a)(3)~~ **section 4(a)(4)** of this chapter for the taxing district; multiplied by

(2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(e) Each taxpayer in a county that designates all or a part of the county economic development income tax revenue generated by the tax rate adopted under IC 6-3.5-7-5 to replace property taxes in the county is entitled to an additional credit for property tax replacement equal to the product of:

(1) the quotient of:

(A) the taxpayer's property taxes levied in the county; divided by

(B) all taxpayers' property taxes levied in the county; multiplied by

(2) the amount distributed to the county under section 3(d) of this chapter.

SECTION 4. IC 6-1.1-39-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A declaratory ordinance adopted under section 2 of this chapter and confirmed under section 3 of this chapter must include a provision with respect to the

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allocation and distribution of property taxes for the purposes and in the manner provided in this section. The allocation provision must apply to the entire economic development district. The allocation provisions must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the economic development district be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units. However, if the effective date of the allocation provision of a declaratory ordinance is after March 1, 1985, and before January 1, 1986, and if an improvement to property was partially completed on March 1, 1985, the unit may provide in the declaratory ordinance that the taxes attributable to the assessed value of the property as finally determined for March 1, 1984, shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, part or all of the property tax proceeds in excess of those described in subdivision (1), as specified in the declaratory ordinance, shall be allocated to the unit for the economic development district and, when collected, paid into a special fund established by the unit for that economic development district that may be used only to pay the principal of and interest on obligations owed by the unit under IC 4-4-8 for the financing of industrial development programs in, or serving, that economic development district. The amount not paid into the special fund shall be paid to the respective units in the manner prescribed by subdivision (1).

(3) When the money in the fund is sufficient to pay all outstanding principal of and interest (to the earliest date on which the obligations can be redeemed) on obligations owed by the unit under IC 4-4-8 for the financing of industrial development programs in, or serving, that economic development district, money in the special fund in excess of that amount shall be paid to the respective taxing units in the manner prescribed by subdivision (1).

(b) Property tax proceeds allocable to the economic development

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district under subsection (a)(2) must, subject to subsection (a)(3), be irrevocably pledged by the unit for payment as set forth in subsection (a)(2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the economic development district that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory ordinance is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Notwithstanding any other law, each assessor shall, upon petition of the fiscal body, reassess the taxable property situated upon or in, or added to, the economic development district effective on the next assessment date after the petition.

(e) Notwithstanding any other law, the assessed value of all taxable property in the economic development district, for purposes of tax limitation, property tax replacement (except as provided in IC 6-1.1-21-3(c), ~~IC 6-1.1-21-4(a)(3)~~, **IC 6-1.1-21-4(a)(4)**, and IC 6-1.1-21-5(c)), and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(f) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1.

(g) As used in this section, "property taxes" means:

(1) taxes imposed under this article on real property; and

(2) any part of the taxes imposed under this article on depreciable personal property that the unit has by ordinance allocated to the economic development district. However, the ordinance may not limit the allocation to taxes on depreciable personal property with any particular useful life or lives.

If a unit had, by ordinance adopted before May 8, 1987, allocated to an

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economic development district property taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the ordinance continues in effect until an ordinance is adopted by the unit under subdivision (2).

(h) As used in this section, "base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (f); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Subdivision (2) applies only to economic development districts established after June 30, 1997, and to additional areas established after June 30, 1997.

SECTION 5. IC 6-3.5-7-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, ~~and 27~~, **and 28** of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, ~~and 27~~, **and 28** of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

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(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection

(b)(2)(D);

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1 (M) operating expenses authorized under subsection (b)(2)(E);
 2 or
 3 (N) to the extent not otherwise allowed under this chapter,
 4 substance removal or remedial action in a designated unit;
 5 or any combination of these.

6 SECTION 6. IC 6-3.5-7-28 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2005]: **Sec. 28. (a) A county council may by ordinance determine**
 9 **that, in order to promote property ownership in the county and**
 10 **encourage economic development, it is necessary to use economic**
 11 **development income tax revenue to replace property taxes in the**
 12 **county.**

13 (b) If the county council makes a determination under
 14 subsection (a), the county council may designate the county
 15 economic development income tax revenue generated by the tax
 16 rate adopted under section 5 of this chapter, or the revenue
 17 generated by a part of the tax rate, as revenue that will be used to
 18 replace property taxes in the county.

19 (c) County economic development income tax revenues derived
 20 from the part of the tax rate designated for property tax
 21 replacement under subsection (b) shall be deposited in the property
 22 tax replacement fund established under IC 6-1.1-21-1 before
 23 certified distributions are made under section 12 of this chapter.
 24 Any interest earned on money deposited in the property tax
 25 replacement fund under this subsection shall be credited to the
 26 property tax replacement fund for distribution to the county under
 27 IC 6-1.1-21-3(d).

28 SECTION 7. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
 29 IC 6-3.5-7-5(e), an ordinance adopted under IC 6-3.5-7-28, as
 30 added by this act, that is adopted before June 1, 2006, takes effect
 31 thirty (30) days after adoption.

32 (b) This SECTION expires December 31, 2006.

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